



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
400 MARYLAND AVE. S.W.,
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, D.C.

January 15, 2014

Bennie Bennett
Superintendent
School District of Newberry County
P.O. Box 718
1539 Martin St.
Newberry, SC 29108

Re: OCR Complaint No. 11-13-1156
Resolution Letter

Dear Mr. Bennett:

This letter is to notify you of the conclusion of our investigation of a complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on March 20, 2013 against the School District of Newberry County (the District) alleging disability discrimination. The Complainant alleged that the District discriminated against two students based on disability when it failed to timely evaluate a student at Newberry Elementary School and a student at Pomaria-Garmany Elementary School.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance (FFA) from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public educational systems, regardless of whether they receive FFA from the Department. The District is a recipient of FFA from the Department and therefore, is subject to the provisions of Section 504 and Title II.

Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the District. The District expressed an interest in resolving the complaint prior to the completion of OCR's investigation. On January 10, 2014, the District signed a voluntary resolution agreement (copy enclosed), which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the allegation raised in the complaint and information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR has notified the Complainant of the voluntary resolution agreement and we will monitor implementation of the agreement.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

We have advised the Complainant that the District may not harass, coerce, intimidate, or discriminate against any individual for filing a complaint or participating in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment. Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. Complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

We appreciated the assistance of the District and its counsel during the resolution of this complaint. If you have any questions, feel free to contact either Kristi Harris at 202-453-5916 or Kristi.Harris@ed.gov or Tracey Solomon at 202-453-5930 or tracey.solomon@ed.gov.

Sincerely,

//s//

Dale Rhines
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosure